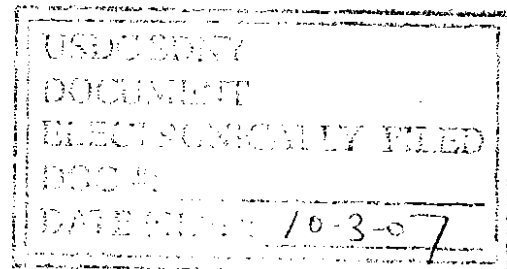


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UNITED STATES DISTRICT COURT  
 SOUTHERN DISTRICT OF NEW YORK

-----X  
 IN RE:

Fosamax Products Liability Litigation

1:06-md-1789 (JFK)

-----X  
*This Document Relates to:*

David E. Tundel

v. Merck & Co., Inc.

Case No: 1:07-cv-6396-JFK  
 -----X

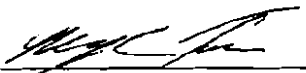
**STIPULATION AND ORDER EXTENDING TIME TO RESPOND TO THE  
 MOTION OF MERCK & CO., INC. TO DISMISS  
 PURSUANT TO FED. R. CIV. P. 41(a)(1)**

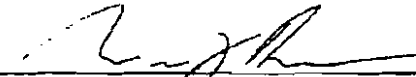
IT IS HEREBY STIPULATED AND AGREED by and between Plaintiff David  
 E. Tundel and Defendant Merck & Co., Inc., through their respective undersigned  
 counsel that Plaintiff's time to respond to Defendant's Motion to Dismiss Pursuant to  
 Fed. R. Civ. P. 41(a)(1) will be extended up to and including October 18, 2007.

Dated: September 28, 2007

LEVIN PAPANTONIO THOMAS  
MITCHELL ECHSNER & PROCTOR PA

HUGHES HUBBARD & REED LLP

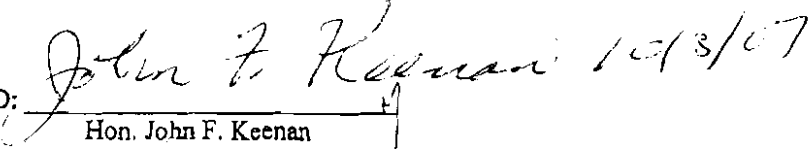
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*Attorneys for Defendant Merck & Co, Inc.*

SO ORDERED:

 10/3/07  
Hon. John F. Keenan